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4 UNITED STATES DISTRICT COURT  
5 NORTHERN DISTRICT OF CALIFORNIA

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7 WAYMO LLC,

Case No. [17-cv-00939-WHA](#) (JSC)

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Plaintiff,

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v.

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UBER TECHNOLOGIES, INC., et al.,

11 Defendants.

12 **ORDER RE: OTTO TRUCKING'S  
MOTION TO COMPEL DEPOSITIONS**

13 Re: Dkt. No. 1438

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Otto Trucking seeks to compel depositions of four Waymo employees related to their knowledge of Mr. Levandowski's involvement with Odin Wave and Tyto. (Dkt. No. 1438.) Waymo objects on the grounds that it has not waived its attorney work-product privilege as to the investigation conducted by its security team (the "Security Investigation."). Otto Trucking's motion is GRANTED in part and DENIED in part.

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The Court agrees that Waymo has not waived the privilege as to its Security Investigation. That does not mean, however, that it can shield from discovery witnesses who have perciptient knowledge of Mr. Levandowski's involvement in side businesses just because the witnesses were discovered during the investigation. From the record it appears that Andrew Barton-Sweeney has perciptient knowledge of these entities and/or Mr. Levandowski's alleged side businesses, that is, knowledge acquired separate and apart from any Security Investigation. If so, Waymo shall make him available for a deposition, not to exceed two hours, and limited solely to his knowledge of Odin Wave, Tyto, and any other side businesses engaged in by Mr. Levandowski. Waymo's opposition does not address this witness, or Nathaniel Fairfield, discussed below.

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Nathaniel Fairfield appears to have obtained his knowledge from current Uber employee Gaeten Pennecot. However, the record suggests that Mr. Fairfield may have additional

1 information regarding Odin Wave. Accordingly, Otto Trucking may take his deposition with the  
2 same limitations as apply to Mr. Barton-Sweeney.

3 As Mr. Krafcik and Ms. Bijnens do not appear to have knowledge separate from that  
4 acquired during the privileged investigation, Otto Trucking's motion to compel their further  
5 depositions is denied.

6 Mr. Levandowski's involvement with side businesses is at issue in this lawsuit; indeed,  
7 Waymo previously moved to compel documents regarding Tyto and Odin Wave.

8 The depositions shall occur on or before September 15, 2017.

9 This Order disposes of Docket No. 1438.

10 **IT IS SO ORDERED.**

11 Dated: September 11, 2017

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14 JACQUELINE SCOTT CORLEY  
15 United States Magistrate Judge  
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